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PATENT  
ATTORNEY DOCKET NO.: 044574-5040-US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Patrick C. KUNG et al.

Application No.: 09/830,033

Group Art Unit: 1631

Filed: October 22, 2001

Examiner: Cheyne D. Ly

For: PHYTOMICS: A GENOMIC-BASED APPROACH TO HERBAL COMPOSITIONS

MAIL STOP AF  
Commissioner for Patents  
U.S. Patent and Trademark Office  
Arlington, VA 22202

Sir:

**NOTICE OF APPEAL TO THE  
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the decision of the Examiner dated February 24, 2004, rejecting the following claims 83-87.

1. Extension of Time

[X] Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
[X] three months	\$ 950.00	<b>\$475.00</b>

[X] The Commissioner is authorized to charge the extension fee of \$475.00 to Deposit Account No. 50-0310.

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01 FC:2253 475.00 DA  
02 FC:2401 165.00 DA

2. Notice of Appeal Fee - 37 C.F.R. § 1.17(b)

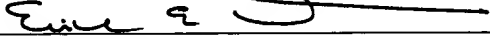
☒ The Commissioner is authorized to charge the appeal fee of \$165.00 to Deposit Account No. 50-0310.

3. Constructive Petition

☒ **Except** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §1.16 and §1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. §1.136(a)(3).

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

By:   
Erich E. Veitenheimer  
Reg. No. 40,420

Dated: August 16, 2004

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